



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,022	11/13/2001	Jamieson William Maclean Crawford	P-4523/15	1428

26253 7590 08/15/2003

BECTON, DICKINSON AND COMPANY  
1 BECTON DRIVE  
FRANKLIN LAKES, NJ 07417-1880

EXAMINER

HAYES, MICHAEL J

ART UNIT	PAPER NUMBER
----------	--------------

3763

DATE MAILED: 08/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/054,022

Applicant(s)

CRAWFORD ET AL.

Examiner

Michael J Hayes

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION*****Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to show distal end wall of the shield as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Fig. 2 appears to show the shield in a retracted position and then in an extended position when the spring is released. However, the two drawings are not the same embodiment and therefore cannot both be labeled Fig. 2.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over VAILLANCOURT (U. S. Patent No. 5,591,138) in view of GRABIS et al. (U. S. Patent No. 6,322,540). Vaillancourt discloses a needle assembly including a hub with an inner tube and outer tube connected at a proximal end, a cylindrical space between the tubes for a spring that biases a shield with a finger 39 to cover the needle when extending. Vaillancourt does not

Art Unit: 3763

disclose applying an inwardly directed force to actuate the shield, but uses a rotating motion.

Grabis teaches the actuation of the spring by applying an inwardly directed force on a finger projecting outwardly from the shield. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the teachings of Grabis in the invention of Vaillancourt in order to achieve simple one-handed actuation.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over VAILLANCOURT and GRABIS as applied to claim 1 above, and further in view of SHAW (U. S. Patent No. 5,779,679). Vaillancourt and Grabis disclose the claimed invention except for radially extending wings. Shaw teaches the use of radially extending wings 18 for handling. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the teachings of Shaw in the device of Vaillancourt and Grabis in order to help handle the needle safely.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Haber et al. (U. S. Patent No. 4,813,426) shows a blood collection needle with shield. Sudnak (U. S. Patent No. 4,894,055) shows a biased extending shield for a needle.

Art Unit: 3763

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Hayes at (703) 305-5873. The examiner can usually be reached Monday -Thursday, 7:00-4:30, and on alternate Fridays. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler, can be contacted at (703) 308-3552. The fax number for submitting official papers is (703) 872-9302. The fax number for submitting after final papers is (703) 872-9303.

mjh  
11 August 2003

A handwritten signature in black ink, appearing to read "Michael J. Hayes", with a stylized flourish at the end.

**MICHAEL J. HAYES  
PRIMARY EXAMINER**